IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21263 of 2007(F)

PETITIONER:

1. C.VARGHESE, S/O YOHANNAN,
   AGED 75 YEARS, GRACE VILLA,
   KANNANKODE, ADOOR.

2. JESSY JOSE, W/O JOSE,
   AGED 47 YEARS, GRACE VILLA,
   KANNANKODE, ADOOR,(PRESENTLY IN USA)

3. JOSE V.GEORGE, S/O GEORGE,
   AGED 50 YEARS, GRACE WILLA,
   KANNANKODE, ADOOR,(PRESENTLY IN USA)
   (PETITIONERS 2 AND 3 ARE REPRESENTED BY THEIR
   POWER OF ATTORNEY HOLDER, THE FIRST PETITIONER,
   C.VARGHESE)

BY ADV. SRI. K.SHAJ
SRI.SAJJU.S
SRI.B.BALRAJ

RESPONDENTS:

1. THE DISTRICT COLLECTOR,
   PATHANAMTHITTA.

2. THE ASSISTANT EXECUTIVE ENGINEER,
   PWD ROAD DIVISION, ADOOR.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.21263 of 2007

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Dated this the 10th day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P15 notice by which the petitioners have been directed to vacate the properties mentioned therein on the ground that the subject land is Government land. The petitioners have filed Ext.P16 objections to the same. However, the respondents are taking proceedings for eviction of the petitioners. The petitioners submit that prior to Ext.P15 they have not been given any notice or hearing and therefore, the proceedings evidence by Ext.P15 are in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules.

2. I have heard the learned Government Pleader also.

3. The learned Government Pleader could not

satisfy me that Ext.P15 was preceded by any notice or hearing. Ext.P15 does not contain any reasons why emergency provisions under the Kerala Land Conservancy Act should be invoked. That being so, I am satisfied that Ext.P15 has been issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, it may not be necessary to quash Ext.P15, if it is treated as a show-cause notice.

4. The learned Government Pleader submits that the appropriate authority to take further proceedings in the matter is the concerned Tahsildar and therefore, the matter may be directed to be forwarded to the concerned Tahsildar. In the above circumstances, I dispose of this writ petition with the following directions:

The 2nd respondent shall forward Exts.P15 and P16 to the concerned Tahsildar. The Tahsildar shall afford an opportunity of being heard to the petitioners, which shall include opportunity to

adduce evidence also. Thereafter, the Tahsildar shall pass a speaking order meeting the contentions of the petitioners on the basis of the evidence to be adduced by the petitioners. Till orders passed pursuant to Ext.P15 are communicated to the petitioners, the petitioners shall not be evicted from the property in question.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.